



# California Regional Water Quality Control Board

## Los Angeles Region



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### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REQUIREMENTS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board) is the Lead Agency for evaluating the environmental impacts of the proposed amendment to the *Water Quality Control Plan for the Los Angeles Region* (Basin Plan). The proposed amendment incorporates a Total Maximum Daily Load (TMDL) for Bacteria in the Malibu Creek, Malibu Lagoon and the Malibu Creek 303(d) listed tributaries. The Secretary of Resources has certified the basin planning process as exempt from certain requirements of the California Environmental Quality Act (CEQA), including preparation of an initial study, negative declaration, and environmental impact report (California Code of Regulations, Title 14, Section 15251(g)). As the proposed amendment to the Basin Plan is part of the basin planning process, the environmental information developed for and included with the amendment is considered 'functionally equivalent' to an initial study, negative declaration, and/or environmental impact report.

Any regulatory program of the Regional Board certified as functionally equivalent, however, must satisfy the documentation requirements of California Code of Regulations, Title 23, Section 3777(a) which requires the following:

- A written report providing:
  - a description of the proposed activity;
  - reasonable alternatives to the proposed activity; and
  - mitigation measures to minimize any significant adverse impacts.
- A completed environmental checklist that includes:
  - a checklist of environmental impacts;
  - a discussion of the environmental evaluation; and
  - a determination with respect to significant environmental impacts.

The attached checklist and the staff report for the TMDL for Bacteria in Malibu Creek, Lagoon and listed tributaries fulfill the requirements of Section 3777, Subdivision (a).

#### I. DESCRIPTION OF PROPOSED ACTIVITY

The Water Quality Control Plan for the Los Angeles Region (also know as a the Basin Plan) designates beneficial uses of waterbodies, establishes water quality objectives for the protection of these beneficial uses, and outlines a plan of implementation for maintaining and enhancing water quality. The proposed amendment would incorporate into the Basin Plan a TMDL to reduce bacteria in Malibu Creek, Lagoon, and 303(d) listed tributaries.

A draft TMDL and CEQA checklist were released for public comment on October 10, 2003. In response to comments, staff revised the TMDL and the CEQA checklist. This checklist supercedes the CEQA checklist for the Malibu Creek Bacteria TMDL, dated October 10, 2003.

For certain circumstances, the Regional Board proposes to implement the bacteria objectives set to protect water contact recreation (REC-1) using either a 'reference system/antidegradation approach' and makes provisions for considering a natural sources exclusion. Both of these approaches recognize that there are natural sources of bacteria that may cause or contribute to exceedances of the single sample objectives.

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The Regional Board's intent in implementing the bacteria objectives using a 'reference system/antidegradation approach' is to ensure that bacteriological water quality is at least as good as that of a reference site and that no degradation of existing bacteriological water quality is permitted where existing bacteriological water quality is better than that of a reference site. The Regional Board's intent in implementing the bacteria objectives using a 'natural sources exclusion approach' is to ensure that all anthropogenic sources of bacteria are controlled. These approaches are consistent with state and federal antidegradation policies (State Board Resolution No. 68-16 and 40 CFR 131.12), while acknowledging that it is not the intent of the Regional Board to require treatment or diversion of natural coastal creeks or to require treatment of natural sources of bacteria from undeveloped areas. While treatment or diversion of natural sources may fully address the impairment of the water contact recreation beneficial use, such an approach may adversely affect valuable aquatic life and wildlife beneficial uses in the Region.

The Regional Board's goal in incorporating the above-mentioned TMDL is to reduce the risk of illness associated with swimming in fresh and marine waters contaminated with human sewage and other sources of bacteria. Swimming in waters with elevated bacteria densities has long been associated with adverse health effects. Local and national epidemiological studies compel the conclusion that there is a causal relationship between adverse health effects, such as gastroenteritis and upper respiratory illness, and recreational water quality, as measured by bacteria indicator densities.

Analysis of the bacteriological monitoring data collected in the Malibu Creek watershed has consistently shown that bacteria densities frequently exceed the Water Contact Recreation (REC-1) water quality objectives for protection of public health. Based on the Regional Board's preliminary assessment of several years of bacteriological data the exceedances appear to be caused by storm drains that carry both dry weather and wet weather flows into the Creek and Lagoon. Nonpoint sources of bacteria such as onsite sewage treatment systems (OSTS) and wildlife also contribute to the exceedances of water quality objectives. The TMDL identifies potential implementation measures such as capture and treatment of storm water discharges, advanced treatment for OSTSS, and centralized wastewater treatment for commercial/multifamily OSTSS. The Regional Board has prepared this TMDL to address the documented bacteriological water quality impairments in the Malibu Creek and Lagoon.

The TMDL establishes a 3 -year plan for meeting the allowable days of exceedance of the single sample limits and the 30-day geometric mean limit during summer (April 1 through October 31) dry-weather. However, the TMDL allows the Executive Officer to extend the compliance during summer dry weather to 6 years from the effective date. The TMDL establishes a 6-year plan for compliance with the single sample bacteria limits during winter (November 1 through March 31) dry weather and for compliance with the 30-day geometric mean, and a 10-year plan for reducing the number of wet-weather days that exceed REC-1 bacteriological objectives at Malibu Creek and Lagoon such that (1) bacteriological water quality is as good as that of the "reference" beach (i.e., a beach with a largely natural drainage area) and (2) no degradation of existing water quality occurs. The purpose of this TMDL is to remove the anthropogenic sources (which includes both human sources of bacteria and human activities such as storm water conveyances) bacteriological water quality impairments that prevent Malibu Creek and Lagoon from supporting the REC-1 beneficial use. It involves holding the County of Los Angeles, the County of Ventura, and the municipalities with drainage to the watershed, Caltrans, and the California Department of Parks and Recreation responsible for compliance. In addition, owners of onsite wastewater treatments

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systems subject to Waste Discharge Requirements pursuant to Chapter 4, Article 3 of the California Water Code, are responsible for compliance with respect to their individual systems.

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<b>II. ENVIRONMENTAL CHECKLIST</b>		
<b>1.</b>	<b>Earth. Will the proposal result in:</b>	
	a. Unstable earth conditions or in changes in geologic substructures?	No
	b. Disruptions, displacements, compaction or overcoming of the soil?	Maybe
	c. Change in topography or ground surface relief features?	No
	d. The destruction, covering or modification of any unique geologic or physical features?	No
	e. Any increase in wind or water erosion of soils, either on or off the site?	Maybe
	f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	Maybe
	g. Exposure of people or property to geologic hazards, such as earthquakes, landslides, mudslides, ground failure, or similar hazards?	Maybe No
<b>2.</b>	<b>Air. Will the proposal result in:</b>	
	a. Substantial air emissions or deterioration of ambient air quality?	No
	b. The creation of objectionable odors?	No (see comment)
	c. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?	No
<b>3.</b>	<b>Water. Will the proposal result in:</b>	
	a. Changes in currents, or the course of direction or water movements, in either marine or fresh waters?	Maybe
	b. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?	Maybe
	c. Alterations to the course of flow of flood waters?	Maybe
	d. Change in the amount of surface water in any water body?	Maybe
	e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?	Yes
	f. Alteration of the direction or rate of flow of ground waters?	Maybe
	g. Change in the quantity or quality of ground waters, either through direct	Maybe

<b>II. ENVIRONMENTAL CHECKLIST</b>		
	<p>additions or withdrawals, or through interception of an aquifer by cuts or excavations?</p> <p>h. Substantial reduction in the amount of water otherwise available for public water supplies?</p> <p>i. Exposure of people or property to water related hazards such as flooding or tidal waves?</p>	<p>No</p> <p>No (see comment)</p>
<b>4.</b>	<p><b>Plant Life. Will the proposal result in:</b></p> <p>a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, microflora and aquatic plants)?</p> <p>b. Reduction of the numbers of any unique, rare or endangered species of plants?</p> <p>c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?</p> <p>d. Reduction in acreage of any agricultural crop?</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p>
<b>5.</b>	<p><b>Animal Life. Will the proposal result in:</b></p> <p>a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?</p> <p>b. Reduction of the numbers of any unique, rare or endangered species of animals?</p> <p>c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?</p> <p>d. Deterioration to existing fish or wildlife habitat?</p>	<p>No</p> <p>No</p> <p>No</p> <p>No (see comments)</p>
<b>6.</b>	<p><b>Noise. Will the proposal result in:</b></p> <p>a. Increases in existing noise levels?</p> <p>b. Exposure of people to severe noise levels?</p>	<p>Maybe</p> <p>No</p>
<b>7.</b>	<p><b>Light and Glare. Will the proposal:</b></p> <p>a. Produce new light or glare?</p>	<p>No</p>
<b>8.</b>	<p><b>Land Use. Will the proposal result in:</b></p> <p>a. Substantial alteration of the present or planned land use of an area?</p>	<p>Maybe</p>

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<b>II. ENVIRONMENTAL CHECKLIST</b>		
<b>9.</b>	<b>Natural Resources. Will the proposal result in:</b> a. Increase in the rate of use of any natural resources?  b. Substantial depletion of any nonrenewable natural resource?	No  No
<b>10.</b>	<b>Risk of Upset. Will the proposal involve:</b> a. A risk of an explosion or the release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	Maybe
<b>11.</b>	<b>Population. Will the proposal:</b> a. Alter the location, distribution, density, or growth rate of the human population of an area?	No
<b>12.</b>	<b>Housing. Will the proposal:</b> a. Affect existing housing, or create a demand for additional housing?	Maybe
<b>13.</b>	<b>Transportation/Circulation. Will the proposal result in:</b> a. Generation of substantial additional vehicular movement?  b. Effects on existing parking facilities, or demand for new parking?  c. Substantial impact upon existing transportation systems?  d. Alterations to present patterns of circulation or movement of people and/or goods?  e. Alterations to waterborne, rail or air traffic?  f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	No  No No Maybe No No
<b>14.</b>	<b>Public Service. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:</b> a. Fire protection?  b. Police protection?  c. Schools?  d. Parks or other recreational facilities?  e. Maintenance of public facilities, including roads?  f. Other governmental services?	No  No No No Maybe Yes

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<b>II. ENVIRONMENTAL CHECKLIST</b>		
<b>15. Energy. Will the proposal result in:</b>		
a. Use of substantial amounts of fuel or energy?		No
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?		No
<b>16. Utilities and Service Systems. Will the proposal result in a need for new systems, or substantial alterations to the following utilities:</b>		
a. Power or natural gas?		Maybe
b. Communications systems?		No
c. Water?		No
d. Sewer or septic tanks?	Yes	
e. Storm water drainage?	Yes	
f. Solid waste and disposal?		No
<b>17. Human Health. Will the proposal result in:</b>		
a. Creation of any health hazard or potential health hazard (excluding mental health)?		No (see comment)
b. Exposure of people to potential health hazards?		No (see comment)
<b>18. Aesthetics. Will the proposal result in:</b>		
a. The obstruction of any scenic vista or view open to the public?		No
b. The creation of an aesthetically offensive site open to public view?		No
<b>19. Recreation. Will the proposal result in:</b>		
a. Impact upon the quality or quantity of existing recreational opportunities?	Yes	
<b>20. Archeological/Historical. Will the proposal:</b>		
a. Result in the alteration of a significant archeological or historical site structure, object or building?		No
<b>21. Mandatory Findings of Significance</b>		
<b>Potential to degrade:</b> Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below		No

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<b>II. ENVIRONMENTAL CHECKLIST</b>	
self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	
<b>Short-term:</b> Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time, while long-term impacts will endure well into the future.)	No
<b>Cumulative:</b> Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)	No
<b>Substantial adverse:</b> Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	No

### III. DISCUSSION OF ENVIRONMENTAL EVALUATION

Expand on all “YES” and “MAYBE” answers given to the preceding questions in regard to environmental impacts. The evaluation shall consider whether the environmental impact indicated will have a substantial, adverse change in any of the physical conditions within the area affected by the activity. In addition, the evaluation should discuss environmental effects in proportion to their severity and probability of occurrence. (Use additional pages if necessary.)

- 1. Earth. b.** Will the proposal result in disruptions, displacements, compaction or overcoming of the soil?

Answer: Maybe

Depending on the implementation strategy chosen, the proposal may result in soil excavation during construction of storage, diversion or treatment facilities for storm water.

- 1. Earth. e.** Will the proposal result in any increase in wind or water erosion of soils, either on or off the site?

Answer: Maybe

Construction of storm water or waste water collection and treatment facilities have the potential to, increase erosion during excavation. However the storm water pollution prevention plan is expected to mitigate these potential temporary impacts. To the extent the TMDL encourages on-site retention of storm water, downstream erosion and scouring likely will be reduced.

- 1. Earth. f.** Will the proposal result in changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?

Answer: Maybe

Depending on the implementation strategy chosen, the proposal may result in changes in deposition and erosion of beach sands if a portion of storm water is stored and diverted to treatment facilities, rather than discharging directly to the creek or lagoon. The decrease in stream flows during storm events is expected to reduce the potential for erosion and scouring and is expected to be a positive impact.

- 1. Earth g.** Will the proposal result in exposure of people or property to geologic hazards, such as earthquakes, land slides, ground failure, or similar hazards.

Answer: Maybe the siting and construction of storm water collection and/or groundwater recharge facilities must include an analysis of impacts on local soil stability. Such a project would be subject to a project specific CEQA review.

- 2. Air. b.** Will the proposal result in objectionable odors.

Answer: No. The upgrading of on-site waste water treatment systems is likely to reduce objectionable odors from some currently malfunctioning systems.

### III. DISCUSSION OF ENVIRONMENTAL EVALUATION (continued)

**3. Water. a.** Will the proposal result in changes in currents, or the course of direction or water movements, in either marine or fresh waters?

Answer: Maybe

A change in fresh water movement may occur if compliance with the TMDL is achieved in part through diversion of storm water from open channels to treatment facilities.

**3. Water. b.** Will the proposal result in changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?

Answer: Maybe

Changes in drainage patterns and the rate and amount of surface water runoff may occur if a portion of storm water is diverted and/or captured and treated to achieve compliance with the TMDL. On-site retention and treatment of stormwater may increase absorption.

**3. Water. c.** Will the proposal result in alterations to the course of flow of flood waters?

Answer: Maybe

Depending on the implementation strategy chosen, the proposal may result in the diversion and storage of a portion of storm water, altering its current course of flow directly to the creeks or lagoon. On-site retention of stormwater likely will reduce the potential amount of floodwaters.

**3. Water. d.** Will the proposal result in change in the amount of surface water in any water body?

Answer: Maybe

A change in the amount of surface water in waterbodies may occur if compliance with the TMDL is achieved by diverting a portion of storm water runoff to wastewater, or urban runoff treatment facilities.

**3. Water. e.** Will the proposal result in discharge to surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?

Answer: Yes. Bacteria levels in surface waters will be reduced when the TMDL is implemented.

A change in the quality of surface water will occur when the TMDL is implemented by controlling sources of bacteria in surface runoff and/or treating dry-weather runoff and storm water runoff. This will positively impact recreational beneficial uses of surface waters, including water contact and non-contact recreation.

**3. Water. f.** Will the proposal result in alteration of the direction or rate of flow of ground waters?

Answer: Maybe

### III. DISCUSSION OF ENVIRONMENTAL EVALUATION (continued)

Stormwater retention systems may increase groundwater re-charge. A centralized waste water treatment system that allows for re-use of treated water may reduce the amount of groundwater re-charge in the Malibu Civic Center area.

**3. Water. i.** Will the proposal result in exposure of people or property to water related hazards such as flooding or tidal waves.

Answer: No.

The retention of storm water will reduce downstream flood hazards.

**5. Animal Life. d.** Will the proposal result in deterioration of existing fish or wildlife habitat?

Answer: No.

Reductions in stormwater flow will reduce stream bank scouring, scouring of the lagoon, and also reduce the likelihood of weak swimming fish (e.g., tidewater goby) from being swept into the ocean during heavy flow.

**6. Noise. a.** Will the proposal result in increases in existing noise levels?

Answer: Maybe

Depending on the implementation strategy chosen, the proposal may result in increases in existing noise levels, particularly in the case of construction of storage, diversion or treatment facilities for storm water, or a centralized wastewater treatment facility in the City of Malibu. Impacts from construction would be temporary. Also, increased noise levels from water pumping or treatment processing may occur, but can be mitigated to acceptable levels.

**8. Land Use. a.** Will the proposal result in substantial alteration of the present or planned land use of an area?

Answer: Maybe

Depending on the implementation strategy chosen, the proposal may result in alteration of the present or planned land use of an area to provide land for storage, diversion or treatment facilities for storm water or wastewater.

**10. Risky of Upset. a.** Will the proposal involve a risk of explosion or the release of hazardous substances( including but not limited to: oil, pesticides, chemicals or radiation) in the event of an accident or upset.

Answer: Maybe.

### III. DISCUSSION OF ENVIRONMENTAL EVALUATION (continued)

Chlorine gas has been used to disinfect wastewater. If used, chlorine gas could pose a significant health risk in the event of an accidental release. However, many alternative disinfection processes are available including treatments with sodium hypochlorite, ultra violet light and ozone treatment.

12. **Housing. a.** Will the proposal affect existing housing or create a demand for existing housing?

Answer: Maybe.

Existing housing served by onsite wastewater treatment systems maybe subject to system upgrades. Should a centralized wastewater treatment system replace onsite systems, properties that could not previously be developed because soils are not suitable for onsite systems might be developable. To the extent that housing density is limited due to constraints related to onsite wastewater treatments systems, a centralized wastewater treatment could ease those restrictions.

13. **Transportation/Circulation. d.** Will the proposal result in alterations to present patterns of circulation or movement of people and/or goods?

Answer: Maybe

Depending on the implementation strategy chosen, the proposal may result in temporary alterations to present traffic patterns during construction of storm water diversion or wastewater treatment facilities.

14. **Public Service. e.** Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: maintenance of public facilities, including roads?

Answer: Maybe

The proposal may result in the need for increased maintenance of public facilities and, specifically, storm water diversion facilities or structural best management practices (BMPs) or a centralized wastewater treatment system.

14. **Public Service. f.** Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas: other government services?

Answer: Yes

The proposal will result in the need for increased bacteriological monitoring at Malibu Creek and Lagoon to track compliance with the TMDL and increased regulation of onsite sewage treatment systems.

16. **Utilities and Service Systems. a.** Will the proposal result in a need for new systems, or substantial alterations power or natural gas facilities?

Answer: Maybe

### III. DISCUSSION OF ENVIRONMENTAL EVALUATION (continued)

Depending on the method used to implement the TMDL, upgraded wastewater treatment systems or the construction and operation of a centralized wastewater treatment system may require additional power to operate pumps, treatment equipment and/or ancillary facilities.

**16. Utilities and Service Systems. d.** Will the proposal result in a need for new systems, or substantial alterations to the following utilities: sewer or septic tanks?

Answer: Yes

In order to achieve compliance with the TMDL, onsite sewage treatment systems that affect water quality at Malibu Creek and Lagoon may need to be repaired, upgraded, replaced and/or adequately maintained.

**16. Utilities and Service Systems. e.** Will the proposal result in a need for new systems, or substantial alterations to the following utilities: storm water drainage?

Answer: Yes

In order to achieve compliance with the TMDL, storm water drainage systems may need to be upgraded or re-configured to divert and/or capture and treat a portion of storm water that affects water quality at Malibu Creek and Lagoon.

**17. Human Health. a.** Will the proposal result in the creation of any health hazard or potential health hazard.( excluding mental health)?

Answer: No.

**17. Human Health. b.** Will the proposal result in exposure of people to the potential health hazards?

Answer: No.

The TMDL is expressly intended to reduce the health risk to persons engaging in water contact recreation in Malibu Creek and Lagoon and tributaries thereto.

**19. Recreation. a.** Will the proposal result in impact on the quality or quantity of existing recreational opportunities?

Answer: Yes.

Implementation of the TMDL will have a positive impact on the quality and quantity of recreational opportunities by reducing the number of days that exceed bacteriological water quality objectives at Malibu Creek and Lagoon.

#### IV. DETERMINATION

Many of the environmental impacts listed above are "positive" impacts, while the majority of adverse impacts are limited, short-term impacts, which may be necessary to achieve the long-term environmental benefits of implementing the Region's bacteria objectives and the TMDL for Bacteria at Malibu Creek and Lagoon. The implementation of this TMDL will result in better water quality and a reduction in the risk of illness and associated health costs imposed on the people who recreate at Malibu Lagoon and Surfrider Beach. None of the identified impacts are significant adverse impacts. No substantial evidence (as defined in Title 14, California Code of Regulations, Section 15384) has been provided to the Regional Board that suggests that any potential adverse impacts would be significant. In addition, because the TMDL does not require any particular methods of compliance, it would be speculative to attempt to predict which methods might be used, and if so, where, when, and how they would be used. Finally, future projects and approvals that are not required by this TMDL, including new infrastructure and additional land development, would be subject to project-level CEQA analysis if and when they are proposed.

On the basis of this initial evaluation:

I find the proposed Basin Plan amendment could not have a significant adverse effect on the environment.

I find that the proposed Basin Plan amendment could have a significant adverse effect on the environment. However, there are feasible alternatives and/or feasible mitigation measures that would substantially lessen any significant adverse impact. These alternatives are discussed in the attached written report.

I find the proposed Basin Plan amendment may have a significant effect on the environment. There are no feasible alternatives and/or feasible mitigation measures available which would substantially lessen any significant adverse impacts. See the attached written report for a discussion of this determination.

DATE: January 29, 2004



Dennis A. Dickerson  
Executive Officer